

**Executive Summary – Enforcement Matter – Case No. 51272**  
**Lower Colorado River Authority**  
**RN102038486**  
**Docket No. 2015-1409-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

LCRA Sim Gideon Power Plant, 257 Power Plant Road near Bastrop, Bastrop County

**Type of Operation:**

Power plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 18, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$41,438

**Amount Deferred for Expedited Settlement:** \$8,287

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$33,151

Name of SEP: Texas Congress of Parents and Teachers dba Texas PTA (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 51272**  
**Lower Colorado River Authority**  
**RN102038486**  
**Docket No. 2015-1409-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** July 7, 2015  
**Date(s) of NOE(s):** August 26, 2015

***Violation Information***

Failed to submit an application for renewal prior to the expiration of a standard permit. Specifically, the Respondent failed to renew Standard Permit Registration No. 56135 before the permit expiration date of September 15, 2013 and continued to operate without authorization after the permit expired [30 TEX. ADMIN. CODE §§ 116.110(a) and 116.604(2) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On February 5, 2015, the Respondent obtained Standard Permit Registration No. 129006 to operate the pollution control project for Unit 1 Boiler and Unit 2 Boiler.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A)

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Carol McGrath, Enforcement Division, Enforcement Team 4, MC 149, (210) 403-4063; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565  
**Respondent:** Jimmy Don Havins, P.E., Senior Vice President, Lower Colorado River Authority, P.O. Box E, Bastrop, Texas 78602  
**Respondent's Attorney:** N/A

**Attachment A**  
**Docket Number: 2015-1409-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Lower Colorado River Authority</b>
<b>Penalty Amount:</b>	<b>Thirty-Three Thousand One Hundred Fifty-One Dollars (\$33,151)</b>
<b>SEP Offset Amount:</b>	<b>Thirty-Three Thousand One Hundred Fifty-One Dollars (\$33,151)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Congress of Parents and Teachers dba Texas PTA</b>
<b>Project Name:</b>	<b><i>Texas PTA Clean School Bus Replacement Program</i></b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 212: Austin-Waco</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Congress of Parents and Teachers dba Texas PTA** for the *Texas PTA Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

Lower Colorado River Authority  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Congress of Parents and Teachers SEP** and shall mail the contribution with a copy of the Agreed Order to the following address.

Texas PTA  
408 West 11th Street  
Austin, Texas 78701

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to the following address.

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to the following address.

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### 6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### 7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	31-Aug-2015	<b>Screening</b>	15-Sep-2015	<b>EPA Due</b>	
	<b>PCW</b>	15-Sep-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Lower Colorado River Authority
<b>Reg. Ent. Ref. No.</b>	RN102038486
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	51272	<b>Order Type</b>	1660
<b>Docket No.</b>	2015-1409-AIR-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Rachel Bekowies
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$63,750
---	-------------------	----------

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	-10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>

<b>Notes</b>	Reduction for high performer classification.
--------------	--

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

<b>Notes</b>	The Respondent does not meet the culpability criteria.
--------------	--

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$15,937
--	-------------------	-----------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$348
Estimated Cost of Compliance	\$5,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$41,438
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

<b>Notes</b>		
<b>Final Penalty Amount</b>		\$41,438

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$41,438
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$8,287
-----------------	-----------------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)	
<b>Notes</b>	Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$33,151
------------------------	----------

Screening Date 15-Sep-2015

Docket No. 2015-1409-AIR-E

PCW

Respondent Lower Colorado River Authority

Policy Revision 4 (April 2014)

Case ID No. 51272

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102038486

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) -10%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -10%



Screening Date 15-Sep-2015

Docket No. 2015-1409-AIR-E

PCW

Respondent Lower Colorado River Authority

Policy Revision 4 (April 2014)

Case ID No. 51272

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102038486

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.110(a) and 116.604(2) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to submit an application for renewal prior to the expiration of a standard permit. Specifically, the Respondent failed to renew Standard Permit Registration No. 56135 before the permit expiration date of September 15, 2013 and continued to operate without authorization after the permit expired.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 17

508 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$63,750

Seventeen monthly events are recommended from the September 15, 2013 permit expiration date to the February 5, 2015 compliance date.

## Good Faith Efforts to Comply

25.0%

Reduction \$15,937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent completed corrective action on February 5, 2015, prior to the August 26, 2015 Notice of Enforcement.

Violation Subtotal \$47,813

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$348

Violation Final Penalty Total \$41,438

This violation Final Assessed Penalty (adjusted for limits) \$41,438

# Economic Benefit Worksheet

Respondent Lower Colorado River Authority  
Case ID No. 51272  
Reg. Ent. Reference No. RN102038486  
Media Air  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	15-Sep-2013	5-Feb-2015	1.39	\$348	n/a	\$348
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization. The Date Required is the date Standard Permit Registration No. 56135 expired. The Final Date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$348
----------------------------	---------	-------	-------

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PENDING** Compliance History Report for CN600253637, RN102038486, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600253637, Lower Colorado River Authority	<b>Classification:</b> HIGH	<b>Rating:</b> 0.06
<b>Regulated Entity:</b>	RN102038486, LCRA SIM GIDEON POWER PLANT	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	15	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	06 - Electric Power Generation		
<b>Location:</b>	257 POWER PLANT ROAD NEAR BASTROP, TEXAS 78602, BASTROP COUNTY		
<b>TCEQ Region:</b>	REGION 11 - AUSTIN		

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER BC0015L

**AIR OPERATING PERMITS** PERMIT 20

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID

**WASTEWATER** PERMIT WQ0002052000

TXD063103162

**WASTEWATER** EPA ID TX0064378

**AIR NEW SOURCE PERMITS** REGISTRATION 36082

**AIR NEW SOURCE PERMITS** PERMIT 45602

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER BC0015L

**AIR NEW SOURCE PERMITS** REGISTRATION 26593

**AIR NEW SOURCE PERMITS** AFS NUM 4802100002

**AIR NEW SOURCE PERMITS** REGISTRATION 129006

**STORMWATER** PERMIT TXR05L936

**WASTEWATER LICENSING** LICENSE WQ0002052000

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER BC0015L

**Compliance History Period:** September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** September 11, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 11, 2010 to September 11, 2015

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Rachel Bekowies

**Phone:** (512) 239-2608

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

N/A

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

### D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	September 17, 2010	(874693)
Item 2	October 12, 2010	(882281)

Item 3	November 17, 2010	(888745)
Item 4	December 10, 2010	(897091)
Item 5	January 19, 2011	(903007)
Item 6	February 17, 2011	(909877)
Item 7	March 16, 2011	(917117)
Item 8	April 05, 2011	(906777)
Item 9	April 19, 2011	(927398)
Item 10	May 16, 2011	(938813)
Item 11	June 16, 2011	(946181)
Item 12	July 19, 2011	(953449)
Item 13	August 16, 2011	(960081)
Item 14	September 19, 2011	(966131)
Item 15	October 18, 2011	(972158)
Item 16	November 17, 2011	(978318)
Item 17	December 13, 2011	(985118)
Item 18	January 19, 2012	(991394)
Item 19	February 17, 2012	(998755)
Item 20	March 20, 2012	(1004280)
Item 21	April 18, 2012	(1010841)
Item 22	May 17, 2012	(1017216)
Item 23	June 14, 2012	(1025001)
Item 24	July 16, 2012	(1008948)
Item 25	July 18, 2012	(1032354)
Item 26	August 15, 2012	(1038774)
Item 27	August 30, 2012	(1029122)
Item 28	September 19, 2012	(1047656)
Item 29	October 16, 2012	(1065132)
Item 30	November 14, 2012	(1065133)
Item 31	December 18, 2012	(1065134)
Item 32	January 17, 2013	(1080714)
Item 33	February 19, 2013	(1080713)
Item 34	March 19, 2013	(1090133)
Item 35	April 17, 2013	(1096515)
Item 36	May 15, 2013	(1107472)
Item 37	June 19, 2013	(1111115)
Item 38	July 17, 2013	(1118008)
Item 39	August 20, 2013	(1125808)
Item 40	October 18, 2013	(1136122)
Item 41	November 15, 2013	(1141496)
Item 42	December 12, 2013	(1147957)
Item 43	January 15, 2014	(1154028)
Item 44	February 13, 2014	(1161350)
Item 45	March 17, 2014	(1168000)
Item 46	April 17, 2014	(1175150)
Item 47	May 14, 2014	(1181340)
Item 48	June 11, 2014	(1188235)
Item 49	July 02, 2014	(1172412)
Item 50	July 15, 2014	(1199883)
Item 51	August 18, 2014	(1199884)
Item 52	August 19, 2014	(1191042)
Item 53	September 11, 2014	(1206613)
Item 54	October 16, 2014	(1213030)
Item 55	November 12, 2014	(1219288)
Item 56	December 09, 2014	(1211927)
Item 57	December 18, 2014	(1225067)
Item 58	January 15, 2015	(1231965)
Item 59	February 16, 2015	(1243078)
Item 60	March 17, 2015	(1249444)
Item 61	April 13, 2015	(1256324)
Item 62	May 14, 2015	(1263058)

Item 63	June 11, 2015	(1270206)
Item 64	July 16, 2015	(1277740)
Item 65	September 08, 2015	(1261050)

**II. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
LOWER COLORADO RIVER  
AUTHORITY  
RN102038486**

**§       BEFORE THE  
§  
§       TEXAS COMMISSION ON  
§  
§       ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2015-1409-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lower Colorado River Authority ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a power plant at 257 Power Plant Road near Bastrop, Bastrop County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 31, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-One Thousand Four Hundred Thirty-Eight Dollars (\$41,438) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Eight Thousand Two Hundred Eighty-Seven

Dollars (\$8,287) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirty-Three Thousand One Hundred Fifty-One Dollars (\$33,151) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on February 5, 2015, the Respondent obtained Standard Permit Registration No. 129006 to operate the pollution control project for Unit 1 Boiler and Unit 2 Boiler.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have failed to submit an application for renewal prior to the expiration of a standard permit, in violation of 30 TEX. ADMIN. CODE §§ 116.110(a) and 116.604(2) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during a record review conducted on July 7, 2015. Specifically, the Respondent failed to renew Standard Permit Registration No. 56135 before the permit expiration date of September 15, 2013 and continued to operate without authorization after the permit expired.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lower Colorado River Authority, Docket No. 2015-1409-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Thirty-Three Thousand One Hundred Fifty-One Dollars (\$33,151) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



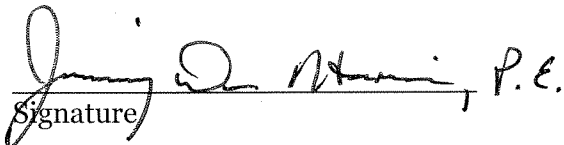
3/10/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

11/11/15  
Date

Jimmy Don Havins, P.E.  
Name (Printed or typed)  
Authorized Representative of  
Lower Colorado River Authority

SR. VP, GENERATION  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.



**Attachment A**  
**Docket Number: 2015-1409-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Lower Colorado River Authority</b>
<b>Penalty Amount:</b>	<b>Thirty-Three Thousand One Hundred Fifty-One Dollars (\$33,151)</b>
<b>SEP Offset Amount:</b>	<b>Thirty-Three Thousand One Hundred Fifty-One Dollars (\$33,151)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Congress of Parents and Teachers dba Texas PTA</b>
<b>Project Name:</b>	<b><i>Texas PTA Clean School Bus Replacement Program</i></b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 212: Austin-Waco</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Congress of Parents and Teachers dba Texas PTA** for the *Texas PTA Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Lower Colorado River Authority  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Congress of Parents and Teachers SEP** and shall mail the contribution with a copy of the Agreed Order to the following address.

Texas PTA  
408 West 11th Street  
Austin, Texas 78701

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to the following address.

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to the following address.

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.